86 - 1362
NO.

Supreme Court, U.S.
FILED
DEC 29 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

ORESTE & TOMMIE JO LODI,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

ORESTE LODI
Rt. 2 Box 252-2
Cottonwood, CA 96022
(916) 347-4025
For Petitioner

Dated: December 26, 1986

QUESTIONS PRESENTED FOR REVIEW

ISSUE 1:

Did the District Court commit error in failing to recognize that petitioner was a free Sovereign individual and not subject to corporate regulations, when informed that petitioner had revoked and rescinded all unilateral contracts?

ISSUE 2:

Can an individual, when learning that he was committed to perform as a trustee in a unilateral contract through operation of law, take appropriate steps to divest himself from such unilateral contracts?

---

1. The caption in the style of this writ contains the names of all the parties to this proceeding, such parties being Lodi and the Commissioner of Internal Revenue.

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

ORESTE & TOMMIE JO LODI,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The Petitioner, Oreste & Tommie Jo Lodi, herein Lodi, requests that a Writ of Certiorari issue to review the opinion of the United States Court of Appeals for the Ninth Circuit, which affirmed the decision of the United States Tax Court.

Lodi's appeal to this Honorable Court involves the issue of a jurisdictional challenge as pertains to a natural Sovereign individual. This issue has been regretably disregarded even though this court has ruled that once jurisdiction is challenged, the agency/court cannot proceed, Melo v. U.S. 505 Fed 1026, Joyce v. U.S., 474 F2d 215.

This issue has been raised at the very start and has not been addressed thus far.

Petitioner, through diligent study and research has discovered that we operated under two distinct governments. One a "Democracy", which is a eleemosynary corporation, Cestui Que charitable trust under the Federal Reserve Corporation and a "Republic" as guaranteed under the

Organic Constitution of the United States of America.

Proper steps were implemented by petitioner to revoke and rescind all unilateral contracts such as and not limited to the birth certificate, Social Security number, marriage license, drivers license, Chiropractic license, bank signature cards, etc., as regards his options. These papers may be presented at the request of this court. Petitioner no longer participates in the "Democracy" federal corporate system and declares allegiance only to the "Republic".

The decisions handed down by the lower courts were based on those individuals who volunteered into the credit system of federal

corporate America.

The questions presented to this Court are of monumental significance and challenge the power of a Court to decide this issue based on the Organic Constitution of the United States of America. If a natural Sovereign individual has presented all the facts as to his status and falls within the common law Republic, then the decision must be made on that basis. If an individual is a participant in the credit structure of the Federal Government, the decision must be made accordingly.

TABLE OF CONTENTS

	Page
Questions Presented For Review	
Petition For Writ of Certiorari	
Table of Contents	i
Table of Authorities	ii
Opinions Below	1
Jurisdiction	2
Constitutional Provisions Involved	3
Statement of the Case	4
Reasons For Granting This Writ	7
Argument	8
Conclusion	11
Certification of Service	15
APPENDIX	
Ninth Circuit Opinion Dated October 8, 1986	A1
Tax Court Opinion Dated November 5, 1984	A6

TABLE OF AUTHORITIES

	Page
Melo v. U.S. 505 F2d 1026	
Joyce v. U.S. 474 F2d 215	
Miranda v. Arizona, 384 U.S. 436 p 491	9
Norton v. Shelby County, 118 U.S. 425 p 442	9,10
16 Am Jur Sec. 177 Late 2d, Sec 256	10
Article 1, Bill of Rights	12
II Corinthians. 5:20 Holy Bible	12
Deuteronomy 4:2 Holy Bible	13
Acts 5:29 Holy Bible	14

OPINIONS BELOW

The opinion of the United States Court of Appeals for Ninth Circuit, declared this case was Not For Publication. Petition for rehearing en banc was denied on November 28, 1986.

JURISDICTION

Jurisdiction of the Appellate Court was pursuant to 28 USC 1291, as to all final decisions of the District Courts and from 28 USC 1292, as to all interlocutory decisions of the District Court. The opinion in the Appellate Court was rendered on October 8, 1986, and Lodi's timely filed petition for rehearing en banc was denied on November 28, 1986. This court's jurisdiction is invoked pursuant to 28 U.S.C. Section 1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

Article IV, Section 4 U.S. Constitution:

> "Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government".

Article VI, U.S. Constitution:

> "This Constitution...shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the Contrary notwithstanding.

Article I Section 10 U.S. Constitution:

> "Section 10. No State shall... pass any Law impairing the Obligation of Contracts".

STATEMENT OF THE CASE

A. PROCEEDING IN THE DISTRICT COURT

On or about September 13, 1984, the U.S. Tax Court granted the motion of the attorney for the Commissioner of Internal Revenue despite the fact that Lodi was a natural Sovereign individual who was not within the jurisdiction of the CIR and who was denied counsel to defend against usurpation of power. Lodi at no time in the proceedings waived any of his rights, and demanded his rights at all times.

On October 8, 1986, the United States Court of Appeals for the Ninth Circuit affirmed the decision of the Tax Court. Lodi filed a petition for rehearing en banc with the Ninth Circuit on or about October 20, 1986, but said petition

was denied on November 28, 1986.

B. STATEMENT OF FACTS PERTINENT FOR THIS WRIT.

The only issues raised in this writ concern the matter of the ability of an individual to use his Option as to whether or not he is a volunteer in the credit Federal Reserve System "Democracy" or use his Option not to be a participant, by severing all ties to a unilateral contract by operation of law that compels one to perform in a quasi-contract.

Bouvier's Law Dictionary (1914 Ed) page 661 states:

> "Quasi-contracts. The usual classification of contracts is objected to by Prof. Keener in his law of quasi-contracts. A true contract exists, he says, because the contracting party has willed, in circumstances to which the law attaches the sanction of an obligation, that he shall be bound. His contract

> may be implied in fact, or express.Which of the two it is, is purely a question of the kind of evidence used to establish the contract. In either case the source of the obligation is the intention of the party. "Contract implied in law" is, however, a term used to cover a class of obligations, where the law, though the defendant did not intend to assume an obligation, imposes an obligation upon him, notwithstanding the absence of intention on his part, and, in many cases, in spite of his actual dissent."

There are three indicia involved in a lawfull contract. They are agreement, acceptance, and consideration.

At this point the question becomes "where is the contract"?

Lodi has taken all necessary steps to divest himself of all quasi-contracts, which contracts, through operation of law tied him into a unilateral obligation. Lodi

recognizes that the lower courts may have made their decision on the basis that if they were to rule in their favor, that it would cause others to do likewise. This concept can be put to rest as it is a forgone conclusion that there are a very small percentage of people that would opt out of the system.

REASONS FOR GRANTING THIS WRIT

The questions presented herein have, to date, been ignored by the Tax Court and the United States Court of Appeals for the Ninth Circuit. Petitioner is not aware if these questions have been raised in the past. If this is the first time this Honorable Court has faced this issue, and Lodi has reason to believe that it is, there would be no similar cases to research.

Lodi has presented this issue to this Court to establish the question of status, not as some might contend, that to concur might open a floodgate of dissidents.

If an individual has the option as is expected in a free country, such as the United States of America, then the people have been afforded a choice.

ARGUMENT

The questions raised here, are to determine if this is indeed a free society and if the oath of office to uphold and defend the Organic Constitution of the United States of America has substance, or is merely a formality that one goes through to give the outward appearance of duty.

It is important that every

individual be assured that he still lives in a country where Freedom prevails and where he still has an option to participate or not to participate in any given venture within the confines of the Law of the Land, the Organic Constitution of the United States of America and/or to the Federal Government "Democracy" if that is his choice.

There is no doubt that the right decision in this case will not disturb the ordinary circumstances of the Nation.

> "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v. Arizona, 384 U.S. 436 p 491.

> "An unconstitutional act is not law, it confers no rights; it imposes no duties; affords no protection; it carries no office; it is in legal

> contemplation, as inoperative as though it had never been passed." Norton v. Shelby County 118 U.S. 425 p 442.

> "No one is bound to obey an unconstitutional law and no courts are bound to enforce it". 16 Am Jur 2d Sec. 177 late 2d, Sec 256.

The general rule is that any unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.

The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The United States Constitution is the supreme law of the land, and any

statute, to be valid, must be in agreement. It is impossible for a law which violates the Constitution to be valid.

CONCLUSION

Lodi has thus far faced courts which disregarded the status issue and the decision of the Supreme Court and is as a last resort, facing the very Court that handed down many of those decisions stated in this case from its inception, that clearly removes Lodi from the ranks of a duty through operation of law to the free exercise of the Freedom of Life, Liberty, and Property as was handed down by our founding fathers.

Lodi called attention to the United States Court of Appeals for the Ninth Circuit that he did not

receive redress of grievances due to the fact that he had not been before an Article III Court. He was in fact judged by Judges who did not receive for their services, a compensation, which shall not be diminished during their continuances in office, therefore were beholden to those whom Lodi was in oppositon to, thereby denying redress of grievances. Lodi also notices the Court under redress of grievances that the first amendment states in part:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" Article 1 Bill of Rights, U.S. Constitution.

As ambassadors for Christ, (II Corinthians 5:20) we are required to be reconciled to God.

Deuteronomy 4:2 states:

> "You shall not add to the word which I command you, neither shall you diminish ought from it, that you may keep the commandments of the Lord your God which I command you."

Since Lodi is under the authority of the Lord Jesus Christ, it became academic that the CIR does not have jurisdiction and has proceeded under assumsit on quantum mervit.

Petitioners practice the law of God and in most cases when we practice the law of our God, nothing noticeably different can be observed.

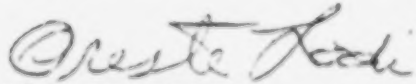
Our founding fathers created the Constitution based on God's laws, under the common law. When a controversy arises between the civil law and the common law, we are

required to obey God rather than men. Acts 5:29.

We are faced with a case that has failed to produce an injured party, causing undue duress on the part of petitioners.

The United States Supreme Court, the final authority in this Nation on matters of law, and guardian of the liberties of the American people, should review this matter which seeks redress and to hold Lodi to less stringent standards than formal pleadings, and grant this Petition For Writ of Certiorari.

Respectfully submitted,



ORESTE LODI
Rt. 2 Box 252-2
Cottonwood, CA 96022
(916) 347-4025
For Petitioner

CERTIFICATION OF SERVICE

I, Oreste Lodi, do hereby certify that I mailed a true and corret copy, postage prepaid, of the foregoing document to:

Glenn L. Archer, Jr.
Assistant Attorney General
Tax Division
U.S. Department of Justice
Washington, D.C. 20530

and,

3 copies, postage prepaid, to:

Solicitor General
Department of Justice
Washington, D.C. 20530

12/26/86 Oreste Lodi

Date Oreste Lodi

APPENDIX A

NOT FOR PUBLICATION

Oreste & Tommie Jo Lodi
Petitioner-Appellant,

v.

Commissioner of Internal Revenue
Respondent-Appellee

No. 85-7054

Tax Court Nos 29037-82 and
29038-82
MEMORANDUM*

United States Court of Appeals
Ninth Circuit

Argued April 26, 1985

Decided October 8, 1986

Petition to review a Decision of the
United States Tax Court
**Submitted: August 8, 1986

---

*This disposition is not appropriate for publicaton and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 21

**The panel finds this case appropriate for submission without argument pursuant to 9th Cir. R. 3(f) and Fed. R. App. P. 34(a).

Before: SNEED, ALARCON, AND NOONAN, Circuit judges.

The appellants seek to overturn the Tax Court's order dismissing their petition for redetermination of a deficiency because of a failure to prosecute and granting summary judgement in favor of the Commisioner on the issue of the propriety of addition to tax bases on fraud pursuant to the authority of 26 U.S.C. Sec.6653(b). We affirm.

The contentions of the appellants closely parallel those of tax protesters. That is, they contend:

1 Tax Court is not an Article III court and therefore improperly constituted;

2 They are not "persons" for tax purposes because they have renounced the social compact;

3 Their receipts are not taxable income because they were gifts or the results of an even exchange;

4 Title 26 of the U.S. Code is not positive law because it was never properly enacted;

5 Sixteenth Amendment was never properly ratified;

6 Tax Court erred in denying a continuance to allow them to obtain counsel.

These contentions substantially can be dealt with by referring to decisions by the Supreme Court and this court.

The Tax Court is constitutional and has jurisdiction to redetermine

deficiencies. Redhouse v. Commissioner, 728 F 2d 1249, 1253, & n.2 (9th Cir.), cert. denied, 105 S. Ct. 506 (1984). The Internal Revenue Service has undisputed authority to make the inquiries, determinations, and assessments of all taxes imposed by the Internal Revenue Code of 1954. See U.S. C. Sec. 6201 (a); Rockwell v. Commissioner, 512 F. 2d 882, 887 (9th Cir.), cert. denied, 423 U.S. 1015 (1975).

Appellants are "persons" for tax purposes and are obligated to pay taxes. See United States v. Drefke, 707 F. 2d 978, 981 (8th Cir.), cert. denied, 464 U.S. 942 (1983); United States v. Romero, 640 F 2d 1014, 1016 (9th Cir. 1981).

Appellants' receipts constitute income from Chiropractic clients. It is payment for services and includible in gross income. See HCSC-Laundry v. United States, 450 U.S. 1,5, (1981) (per curiam).

The challenge to the ratification of the Sixteenth Amendment is nonjusticiable. See United States v. Stahl, 792 F 2d 1438, 1440 (9th Cir. 1986).

The Tax Court did not err in denying a continuance. The motion was a dilatory one having been made on the eve of trial. No abuse of discretion by the Tax Court occurred.

We impose no sanction for filing this appeal.

Affirmed.

UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

ORESTE LODI,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

No. 29038-82

ORDER OF DISMISSAL AND DECISION

This case was called from the calendar for the Trial Session at San Francisco, California, on September 13, 1984. Counsel for respondent orally moved for summary judgment with respect to the additions to tax under Section 6653(b), Internal Revenue Code of 1954, and to dismiss for lack of prosecution with respect to the deficiencies in income tax and additions to tax under Section 6654, Internal Revenue Code of 1954, then argued on behalf of his motion for

damages filed September 10. 1984. Petitioner stated his position. After due consideration of the proceedings on September 10, and 13, 1984, it is

ORDERED that respondent's oral motion to dismiss is granted and this case is dismissed for lack of prosecution. It is further

ORDERED that respondent's oral motion for summary judgment with respect to additions to tax under Section 6653(b), Internal Revenue Code of 1954, and respondent's motion for damages filed September 10, 1984, are granted. It is further

ORDERED and DECIDED that there are deficiencies in income tax and additions to tax under Sections 6653 (b) and 6654, Internal Revenue Code

of 1954, due from the petitioner for the taxable years and amounts shown:

Year	Income Tax	Internal Revenue Code of 1954, Section 6653(b)	Section 6654
1974	$ 3,342.00	$ 1,671.00	$ 91.73
1975	2,583.00	1,291.50	111.53
1976	3,113.00	1,556.50	115.93
1977	3,130.00	1,565.00	111.38
1978	2,798.00	1,399.00	89.31

That there are damages under Section 6673, Internal Revenue Code of 1954, due from the petitioner to the United States in the amnount of $500.00.

(Signed) Charles E. Clapp II

Judge

Entered: Nov. 5, 1984

UNITED STATES TAX COURT
WASHINGTON, D.C. 20217

TOMMIE JO LODI,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

No. 29037-82

ORDER OF DISMISSAL AND DECISION

This case was called from the calendar for the Trial Session at San Francisco, California, on September 13, 1984. Oreste Lodi appeared on behalf of petitioner. Counsel for respondent orally moved for summary judgment with respect to the additions to tax under Section 6653(b), Internal Revenue Code of 1954, and to dismiss for lack of prosecution with respect to the deficiencies in income tax and additions to tax under Section 6654,

Internal Revenue Code of 1954, then argued on behalf of his motion for award of damages filed September 10, 1984. After due consideration of the proceedings on September 10, and 13, 1984, and the record in this case, it is

ORDERED that respondent's oral motion to dismiss is granted and this case is dismissed for lack of prosecution. It is further

ORDERED that respondent's oral motion for summary judgment with respect to additions to tax under Section 665(b), Internal Revenue Code of 1954, and respondent's motion for award of damages filed September 10, 1984, are granted. It is further

ORDERED and DECIDED that there are deficiencies in income tax and additions to tax under Sections 6653

(b) and 6654, Internal Revenue Code of 1954, due from the petitioner for the taxable years and amounts shown:

Year	Income Tax	Internal Revenue Code of 1954, Section 6653(b)	Section 6654
1974	$ 2,299.00	$ 1,149.50	$ 58.44
1975	1,469.00	734.50	63.43
1976	1,904.00	952.00	70.90
1977	1,826.00	913.00	64.97
1978	1,364.00	682.00	43.54

That there are damages under Section 6673, Internal Revenue Code of 1954, due from the petitioner to the United States in the amnount of $500.00.

(Signed) Charles E. Clapp II

Judge

Entered: Nov. 5, 1984